

1 ARIZONA VOICE FOR CRIME VICTIMS

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8 **IN THE ARIZONA SUPREME COURT**

9 IN THE MATTER OF:

R-20-0031

10 PETITION TO AMEND THE
11 ARIZONA RULES OF CRIMINAL
12 PROCEDURE

ARIZONA VOICE FOR CRIME
VICTIMS'S REPLY TO
COMMENTS TO PETITION TO
AMEND THE ARIZONA RULES
OF CRIMINAL PROCEDURE

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16 Pursuant to Rule 28(e)(5) of the Arizona Rules of the Supreme Court,
17 Arizona Voice for Crime Victims (AVCV) respectfully submits this Reply¹ to the
18 Comments filed in response to its *Petition to Amend the Arizona Rules of Criminal*
19 *Procedure*.
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21
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24 ¹ Rule 28(e)(5) does not impose a page limit on a Reply to a Comment. This is not addressed in
25 the editor's notes. AVCV presumes the lack of a page limit is to allow Petitioners to fully
respond to all Comments in one Reply. Thus, AVCV is submitting one thirty-four-page Reply to
address all four Comments to R-20-0031. If this Court prefers a separate Reply to each
Comment, AVCV will follow the direction of this Court.

1 **I. COMMENT OF THE ARIZONA PROSECUTING**
2 **ATTORNEYS' ADVISORY COUNCIL**

3 The Arizona Prosecuting Attorneys' Advisory Council (APAAC) filed a
4 Comment, *Comment of the Arizona Prosecuting Attorneys' Advisory Council*,
5 generally in support of AVCV's Petition. APAAC supports full integration of
6 victims' rights into the Arizona Rules of Criminal Procedure.
7

8 The Arizona Prosecuting Attorneys' Advisory Council
9 ("APAAC") has again considered the AVCV petition and its proposed
10 changes and supports them. Integrating victims' rights into the various
11 criminal rules will have a significant impact on how the rights of
12 crime victims are ensured and protected in our criminal justice
13 system. At the same time, not repealing Rule 39 will enhance
continued understanding and knowledge of victims' rights throughout
the criminal justice system.

14 (APAAC Comment, at pages 1-2.)

15 AVCV is grateful for APAAC's support and for recognizing that integration
16 will further protect victims' rights.
17

18 APAAC has suggested clarifications to a few of AVCV's proposed
19 amendments. AVCV always welcomes feedback and suggestions as it relates to
20 ensuring victims have a meaningful way to exercise their constitutional rights.
21 However, AVCV does not agree that clarification is necessary. Each suggestion is
22 addressed below:
23

24 **A. Addition of "crime victim" and "victim's attorney" to Rules 1.3,**
25 **1.7, 1.8, and 1.9**

1 AVCV proposes amendments to Rules 1.3, 1.7, 1.8, and 1.9 to include crime
2 victims and victims attorneys in the most basic criminal procedure. Those Rules,
3 as currently written, do not contemplate the involvement of crime victims and their
4 attorneys. Current interpretation has led, in some instances, to a denial of victims'
5 constitutional right to due process, the right to be heard, and impedes the
6 effectiveness of victims' private counsel.
7

8 **Rule 1.3. Computation of Time**

9
10 **(a) General Time Computation.** When computing any time
11 period more than 24 hours prescribed by these rules, by court order, or
12 by an applicable statute, the following rules apply:

13 ...

14 **(5) Additional Time After Service.** If a party or crime victim
15 may or must act within a specified time after service and service is
16 made under a method authorized by Rule 1.7(c)(2)(C), (D), or (E), 5
17 calendar days are added after the specified time period would
18 otherwise expire under (a)(1)-(4), except as provided in Rule 31.3(d).
19 This provision does not apply to the clerk's distribution of notices,
20 minute entries, or other court-generated documents.

21 **Rule 1.7. Filing and Service of Documents**

22 ...

23 **(c) Service of All Documents Required; Manner of Service.**
24 Every person filing a document with any court must serve a copy of
25 the document on all other parties and to any victim's attorney as
follows:

26 **(1) Serving an Attorney.** If a party or victim is represented by an
27 attorney, service under this rule must be made on the attorney unless
28 the court orders service on the party.

29 ...

30 **(3) Certificate of Service.** The date and manner of service must
31 be noted on the last page of the original of the served document or in a
32 separate certificate, in a form substantially as follows:

1 A copy has been or will be mailed/emailed/hand-delivered
2 [select one] on [insert date] to:

3 [Name of opposing party or attorney] [Address of opposing
party or attorney]

4 [Name of victim's attorney] [Address of victim's attorney]

5 If the precise manner in which service has actually been made
is not noted, it will be presumed that the document was served by
6 mail. This presumption will only apply if service in some form has
actually been made.

7
8 **Rule 1.8. Clerk's Distribution of Minute Entries and Other
Documents**

9 (a) **Generally.** The clerk must distribute, either by U.S. mail,
electronic mail, or attorney drop box, copies of every minute entry to
10 all parties and to any victim's attorney.

11 (b) **Electronic Distribution.** The clerk may distribute minute
entries, notices and other court-generated documents to a party or a
12 party's or victim's attorney by electronic means. Electronic
distribution of a document is complete when the clerk transmits it to
13 the email address that the party or attorney has provided to the clerk.

14 **Rule 1.9. Motions, Oral Argument, and Proposed Orders**

15 . . .

16 (b) **Service of Motion; Response; Reply.** The moving party
must serve the motion on all other parties. No later than 10 days after
17 service, another party may file and serve a response, and, no later than
3 days after service of a response, the moving party may file and serve
18 a reply. A reply must be directed only to matters raised in a response.
If no response is filed, the court may deem the motion submitted on
19 the record. When addressing matters that impact any victims' rights, a
victim may file motions, responses, and replies that comply with these
20 rules.

21 . . .

22 (f) **Proposed Orders.** A proposed order must be prepared as a
separate document and may not be included as part of a motion,
23 stipulation, or other document. There must be at least two lines of text
on the signature page of a proposed order. A party or victim's attorney
24 must serve the proposed order on the court and all other parties and
victim's attorney. A party or victim's attorney must not file a
25 proposed order, and the court will not docket it, until a judge has

1 reviewed and signed it. Absent a notice of filing, proposed orders will
2 not be part of the record.

3 APAAC states its concerns here as follows:

4 To address previous concerns that these modifications elevate
5 victims to “party” status, AVCV has proposed a new Rule 1.2(a)(3) to
6 clarify that the suggested modifications should not be construed to
7 make victims parties to a criminal case. (*See also* Petition, p. 6).
8 While this clarification is useful, it should be stressed that a victim’s
9 active participation in making motions and requesting orders in the
10 criminal process is limited to matters that directly involve the victim
enforcing a right or challenging the denial of a right. A.R.S. § 13-
4437(A); *State ex rel. Montgomery v. Padilla*, 238 Ariz. 560, ¶ 22
(App. 2015).

11 (Comment, at page 4.)

12 AVCV does not dispute APAAC’s view but suggests the proposed
13 amendments, as well as existing law, already make it clear that victims are not
14 parties but simply participants with rights. AVCV’s proposed Rule 1.2(a)(3) reads:
15 “(3) *Victims Are Not Parties*. These rules are not to be construed to make victims
16 parties to a criminal case.”
17

18
19 **B. Rule 15.1(g)(1)**

20 AVCV proposes amending the introduction to Rule 15.1(g)(1) to read:

21 **(g) Disclosure by Court Order.**

22 (1) *Disclosure Order*. On the defendant’s motion, a court may
23 order any person other than the victim to make available to the
24 defendant material or information not included in this rule if the court
finds: . . .
25

1 APAAC suggests that the language be modified to state: “*other than the*
2 *victim, absent a determination by the court that the evidence would be*
3 *exculpatory.*” (Comment, at page 5.)
4

5 The modification proposed by APAAC is contrary to current law. The
6 government, not victims, has disclosure obligations under *Brady v. Maryland*, 373
7 U.S. 83 (1963). Absent very limited cases involving due process rights, criminal
8 defendants have no federal or state constitutional right to receive discovery from
9 an unwilling victim. A criminal defendant has no general due process right to
10 discovery apart from the government’s obligation to turn over exculpatory
11 information. *Brady v. Maryland, supra*; *Weatherford v. Bursey*, 429 U.S. 545
12 (1977); *Pennsylvania v. Ritchie*, 480 U.S. 39 (1987). Additionally, there is existing
13 Arizona authority that sets the standard that a criminal defendant has to show
14 before a victim’s constitutional right to refuse a discovery request yields to the
15 defendant's due process right. *See State ex rel. Romley v. Superior Court (Roper)*,
16 172 Ariz. 232 (App. 1992); *State v. Connor*, 215 Ariz. 553 (App. 2007); *State v.*
17 *Kellywood*, 246 Ariz. 45 (App. 2018); *R.S.; S.E. v. Hon. Thompson*, 247 Ariz. 575
18 (App. 2019).
19
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22

23 **C. Rule 16.3(d)(2)**

24 AVCV proposes amending Rule 16.3(d)(2) to read:

25 **(d) Scope of Proceeding.** At the conference, the court may:

...

1 (2) set additional pretrial conferences and evidentiary
2 hearings as appropriate after considering the rights and views of the
3 victim, the victim's right to a speedy trial, and the victim's right to be
4 present at all proceedings; . . .

5 APAAC requests clarification to this proposed amendment:

6 Rule 16.3 allows the court to set evidentiary hearings and
7 pretrial conferences. AVCV also proposes, as it did in previous
8 petitions, to limit a court's ability to set evidentiary hearings and
9 pretrial conferences unless "*the rights and views of the victim, the*
10 *victim's right to a speedy trial, and the victim's right to be present at*
11 *all proceedings*" have been considered. Proposed Rule 16.3(d)(2).
12 The court's ability to set evidentiary hearings and pretrial conferences,
13 which are generally ministerial and determined by a court's docket,
14 should not be hampered by the addition of the proposed language.
15 Instead, APAAC suggests that if a change to Rule 16.3(d) is necessary
16 to protect victims' rights, the proposed modification should be
17 clarified to apply only to motions to continue these hearings, as
18 provided in A.R.S. § 13-4435(F).

19 (Comment, at pages 5-6.)

20 AVCV's proposed language merely sets forth rights victims already have, in
21 a location in the Rules where the importance of those rights is especially
22 significant. Victims have the right to have courts take their rights and views into
23 account throughout the criminal justice process (A.R.S. § 13-4402(A)); victims
24 have the right to a speedy trial (Ariz. Const. Art. II, § 2.1(A)(10)); and victims
25 have the right to be present at all proceedings where the defendant has the right to
be present (Ariz. Const. Art. II, § 2.1(A)(3)).

1 Criminal cases often involve a large number of pretrial conferences as it is.
2 Undue delay of trial is often the worst thing the judicial system puts the victim
3 through and leads to secondary victimization. The impact of delays in the justice
4 system is traumatic to victims. It is well-recognized that the intense emotional toll
5 that victims of violent crime experience is often compounded by a difficult
6 experience with the criminal justice system. Jim Parsons & Tiffany Bergin, *The*
7 *Impact of Criminal Justice Involvement on Victims' Mental Health*, 23 J. Traum.
8 Stress at 182-83; Judith Lewis Herman, *The Mental Health of Crime Victims:*
9 *Impact of Legal Intervention*, 16 J. Traum. Stress 159 (2003). Secondary
10 victimization sometimes causes even more harm than the initial criminal act. Uli
11 Orth, *Secondary Victimization of Crime Victims by Criminal Proceedings*, 15 Soc.
12 Just. Res. 313, 321 (2002). Indeed, a victim's experience with the justice system
13 often "means the difference between a healing experience and one that exacerbates
14 the initial trauma." Parsons & Bergin at 182. Mitigation of unreasonable delay in
15 getting to trial is of paramount importance to victims. The proposed amendment
16 simply requires that the court consider the rights and views of the victim,
17 especially the victim's right to a speedy trial, and the victim's right to be present at
18 all proceedings. It is in a Rule such as Rule 16.3 that this language may do victims
19 the most good.

1 A.R.S. § 13-4435(F), mentioned by APAAC, is intended to serve the same
2 purpose as the proposed addition to Rule 16.3(d)(2), but in a different context,
3 namely, when a motion for continuance is actually made.
4

5 **D. Rule 16.4(a)**

6 AVCV proposes amending Rule 16.4(a) to read:

7 **Rule 16.4. Dismissal of Prosecution**

8 **(a) On the State's Motion.** On the State's motion and for good
9 cause, the court, after considering the views of the victim, may order a
10 prosecution dismissed without prejudice if it finds that the dismissal is
not to avoid Rule 8 time limits.

11 APAAC requests clarification to this proposed amendment:

12
13 This proposed language inserts the victim into the State's
14 decision to dismiss a prosecution and the court's ability to grant it.
15 Fairly read, this proposal could give a victim the right to object to a
dismissal by the State. This is not something that currently exists in
the VBR or its implementing statutes.

16 APAAC has previously pointed out that a victim has the right,
17 upon request, to confer with the prosecution about a dismissal (A.R.S.
18 § 13-4419(A)), but that right does not extend to having the court deny
19 a dismissal if the victim objects. A prosecuting attorney must be free
20 to decide which cases to pursue or not, and the case law is clear that a
21 prosecutor has broad discretion to prosecute cases "regardless of the
22 wishes of the victim." . . . A victim has no authority to direct the
prosecution of a case. A.R.S. § 13-4419(C). APAAC recommends that
if the proposed modification is to be adopted, it should be amended to
read "after determining that the victim has conferred with the
prosecutor."

23 (Comment, at pages 6-7.)

24 AVCV agrees that A.R.S. § 13-4419(C) makes it clear that "A victim has no
25 authority to direct the prosecution of a case." AVCV is simply seeking consistency

1 between the Rules and the constitutional mandate that requires "...rules governing
2 criminal procedure and the admissibility of evidence in all criminal proceedings
3 protect victims' rights..." Ariz. Const. art. II, § 2.1(A)(11). AVCV's proposed
4 language does not interfere with prosecutorial discretion. In a situation where a
5 prosecutor is seeking to dismiss the case, the view of the victims can be
6 communicated through the prosecutor.
7

8
9 AVCV agrees that A.R.S. § 13-4419(A) gives the victim the right, upon
10 request, to confer with the prosecution about a dismissal. It is especially important
11 for a court to know the views of the victim and to consider the victims'
12 constitutional rights to justice and due process, under Ariz. Const. art. II, § 2.1(A),
13 and to include in their analysis as required by Ariz. Const. art. II, § 2.1(A)(11), if it
14 is called upon by the state to dismiss a case, even if the dismissal is without
15 prejudice, given the unlikelihood that a case, once dismissed at the instance of the
16 state, will ever be re-filed.
17

18
19 APAAC asserts that the right here contended for is not something that
20 currently exists in the VBR or its implementing statutes. However, A.R.S. 13-4418
21 requires a liberal construction. The VBR was enacted "To preserve and protect
22 victims' rights to justice and due process." Ariz. Const. Art. II, § 2.1(A). The first
23 VBR right is the right "To be treated with fairness, respect, and dignity . . .
24 throughout the criminal justice process." Ariz. Const. Art. II, § 2.1(A)(1). The
25

VBR also includes the right “To be heard at any proceeding involving a post-arrest release decision,” which would necessarily involve, in the case of an in-custody defendant, a decision to dismiss the prosecution. Ariz. Const. Art. II, § 2.1(A)(4). The VBR also includes the right “To have all rules governing criminal procedure . . . protect victims’ rights.” If the state moves to dismiss a prosecution, giving the victim the right to make his or her views known to the court before the court acts is consistent with victims’ rights under the VBR.

II. MARICOPA COUNTY ATTORNEY’S COMMENT IN SUPPORT

The Maricopa County Attorney’s Comment completely supports AVCV’s Petition:

As currently drafted, victims’ rights are consolidated into one rule at the end of the criminal rules. Given this, victims’ rights can be easily and inadvertently overlooked when practitioners or courts refer to individual rules of procedure for guidance. Petitioner has cited several instances where the placement of the rules likely contributed to a court’s failure to enforce these rights.

Victims’ rights are so important in Arizona that they are protected in the Arizona Constitution. Their importance should likewise be reflected within the individual rules of criminal procedure along with the rights of the parties. Hopefully the integration of these rights within the rules will achieve that necessary equality.

(Comment, at pages 1-2.)

1 AVCV thanks the Maricopa County Attorney, Allister Adel, for her
2 unqualified support and for recognizing the need to have victims’ rights fully
3 integrated throughout the Arizona Rules of Criminal Procedure.
4

5 **III. COMMENT OF ARIZONA ATTORNEYS FOR CRIMINAL**
6 **JUSTICE AND MARICOPA COUNTY OFFICE OF THE PUBLIC**
7 **DEFENDER**
8

9 *The Comment of Arizona Attorneys for Criminal Justice and Maricopa*
10 *County Office of the Public Defender Regarding Petition to Amend the Arizona*
11 *Rules of Criminal Procedure by Repealing Rule 39* opposes AVCV’s Petition. The
12 criminal defense bar resisted the changes in criminal law brought about by the
13 victims’ rights movement, including its constitutional reform in Arizona. The
14 resistance continues through the objections lodged by the Arizona Attorneys for
15 Criminal Justice (AACJ) and the Maricopa County Public Defender (MCPD) to
16 AVCV’s 2020 Petition.
17
18

19 The lack of candor and understanding of the Comment itself is indicated in
20 its very title. AVCV’s current Petition does not seek to *repeal* Rule 39, but to
21 *maintain* it. The decision to maintain Rule 39 in AVCV’s current Petition is a
22 decision that was made after considering the views of criminal justice stakeholders,
23 including the views of AACJ/MCPD. The error in the title is carried over into the
24 Comment itself, which states that “AACJ and MCPD oppose the Petition of
25

1 Arizona Voice for Crime Victims (AVCV) to repeal Arizona Rule of Criminal
2 Procedure 39 and instead ‘integrate’ that Rule’s protections across the rules . . .”
3
4 (Comment, at page 2.) A careful reading of AVCV’s current Petition would allow
5 the reader to see the changes in this Petition over previous Petitions, each of which,
6 No. R-18-0001 and R-19-0016, *did* call for the *repeal* of Rule 39. AVCV’s 2020
7 Petition specifically explains that this year’s approach is different:

8
9 AVCV has previously petitioned this Court to repeal Rule 39
10 after full integration of victims’ rights into the rules. After considering
11 stakeholder concerns over repealing Rule 39, this petition does not
12 propose a repeal of Rule 39. However, AVCV proposes one
13 amendment to Rule 39(a) in the event a future conflict arises between
14 a rule and a provision of Rule 39. AVCV proposes adding subsection
15 (3)(C) that states: “If any provision of Rule 39 conflicts with a rule
16 provision where a victim’s right is addressed, the individual rule
17 provision where the victim’s rights has been integrated shall prevail.”

18 (Petition, at page 3.)

19 AACJ/MCPD explains their opposition to AVCV’s Petition, reasoning that
20 “the result would be a counter-productive scattering of [the] protections [afforded
21 victims by Rule 39]. Although AVCV believes that this will assist trial judges in
22 locating relevant protections for victims, this change would actually make it more
23 challenging for judges to do so.” (*Id.*)

24 Integrating victims’ rights into the very Rules in which they are implicated is
25 contrary to scattering. We cannot contemplate how integration of victims’ rights
would make it challenging for judges and criminal justice practitioners to locate

1 the relevant protections for victims. In addition to ensuring victims’ rights are
2 protected, integration serves another purpose and that is the ease of practice. When
3 addressing a specific event in a criminal case, judges and practitioners will only
4 have to consult only the Rule governing that event, rather than having to flip
5 around in the Rules to try to find other Rules, such as Rule 39, that may relate to
6 that event without understanding the application of Rule 39 to the more specific
7 provision.
8
9

10 AACJ/MCPD also asserts that AVCV is proposing substantive changes:
11 “Moreover, although AVCV urges that these changes are merely stylistic to assist
12 parties and judges, there are also several substantive changes.” (Comment, at pages
13 2-3.). AVCV’s proposed amendments are not substantive, nor should they be
14 characterized that way. AVCV is simply integrating victims’ rights by proposing
15 amendments to Rules governing procedural events that implicate victims’ rights.
16 AVCV’s proposed amendments would not work a change in the underlying law on
17 which the Rule change relies—the Rule change would not *expand* the victims’
18 right in question, but only place it where it could more easily be found.
19 Ultimately, the proposed amendments will guide judges and practitioners on the
20 application of victims’ rights.
21
22
23

24 AACJ/MCPD note some additional objections as outlined below:
25

1 (1) “Most concerning is Petitioner’s failure not only to acknowledge that
2 this is the third consecutive year AVCV has filed a virtually identical petition, but
3 also to make any significant changes to account for potential reasons why this
4 Court has rejected both Previous attempts at this proposal.” (Comment, at page 3.)

5
6 (2) Petitioner’s counsel did not “acknowledge” that she attended meetings
7 of the Task Force of the Arizona Rules of Criminal Procedure and the Rule 32
8 Task Force, which turned down proposals made at those meetings. (*Id.*)

9
10 The Petition acknowledges this is not AVCV’s first rule change Petition in
11 the first full paragraph on the third page. Additionally, the Petition addresses that
12 changes in this year’s Petition are a result of stakeholder concerns. Further, Rule
13 28 does not prohibit a Petition being re-filed in subsequent years. Each of
14 AVCV’s rule change Petitions have included modifications after considering
15 stakeholder concerns. AACJ/MCPD’s concerns are misplaced and attempt to
16 deflect from the merits of AVCV’s Petition.
17
18

19 With respect to the second point they make, it is irrelevant to the issues
20 presented by the instant Petition. AACJ/MCPD asserts: “Petitioner’s counsel []
21 repeatedly attended public meetings of both [Task Forces] to propose *this idea*
22 during the public comment period, and at every meeting where *the issue* was
23 raised, both Task Forces resoundingly rejected *the idea* both through comments by
24 their members and through lack of a motion of any member to make this change.”
25

1 However, they fail to mention that the 2017 Task Force advised that changes
2 AVCV was seeking should be in their own rule change Petition.

3
4
5 Without noting any particular proposed amendment in AVCV's current
6 Petition, AACJ/MCPD has attached their Comments to AVCV's 2018 and 2019
7 Petitions. AACJ/MCPD state:

8
9 AACJ and MCPD have substantively responded to AVCV's
10 previous two petitions. Because AVCV has made no attempt to
11 address the issues raised through previous petitions but has instead
12 rehashed essentially the same petition, AACJ and MCPD will not
13 rehash their comments to those petitions; instead those comments are
14 attached hereto as Appendix A (2018 comment) and Appendix B
15 (2019 comment) and the arguments therein are incorporated by
16 reference.

17 (Comment, at page 3.)

18 AVCV's previous Petitions are significantly different than the Petition
19 currently pending before this Court. AVCV made changes in 2020 based on the
20 2018 and 2019 Comments of AACJ/MCPD (or its predecessor, Arizona Public
21 Defender's Association (APDA)) to AVCV's 2018 and 2019 Petitions.
22 AACJMCPD have mischaracterized the 2020 Petition as a "rehash."

23 Of the only six amendments AACJ/MCPD objected to in the 2018 Petition,
24 four were changed by AVCV already in its 2019 Petition, in part in response to
25 objections raised by AACP/ADPA in their 2018 Comment, and those changes
remain the same in the 2020 Petition. Following those changes, in their 2019

1 Comment, AACJ/MCPD dropped two of their objections. AACJ/MCPD did not
2 acknowledge these changes in their Comment to AVCV's current Petition. With
3 respect to the Comments made by AACJ/MCPD/APDA in connection with
4 AVCV's 2018 and 2019 Petitions, to the extent those Comments are relevant to
5 specific amendments sought by AVCV's 2020 Petition AVCV responds as
6 follows:
7

8
9 **A. Appendix A: 2018 Comment—AVCV Petition No. R-18-0001**

10 The 2018 Comment was filed by AACJ and APDA. It identified *only six*
11 *proposed Rule changes* that, according to the Comment, “highlight[] just some of
12 the proposed changes in the Petition that go beyond the scope of stylistic
13 integration, creating ‘new victims’ rights’ and limiting the due process rights of the
14 accused.” (Comment, at page 4.) These six changes were, however, the only
15 changes specifically addressed by AACJ/MCPD/APDA in their 2018 and 2019
16 Comments.
17

18
19 These six proposed 2018 Rule changes are considered below relative to
20 AVCV's 2019 and 2020 Petitions:

21 **1. Rule 1.9**

22 AVCV's proposed 2018 changes to Rule 1.9 read as follows:
23

24 **Rule 1.9. Motions, Oral Argument, and Proposed Orders**

25 . . .

(f) **Service of Motion; Response; Reply.** The moving party or
the victim's attorney must serve the motion on all other parties. No

1 later than 10 days after service, another party or the victim's attorney
2 may file and serve a response, and, no later than 3 days after service
3 of a response, the moving party or the victim's attorney may file and
4 serve a reply. A reply must be directed only to matters raised in a
5 response. If no response is filed, the court may deem the motion
6 submitted on the record.

7 . . .

8 **(h) Waiver of Requirements.** On a party's or victim's
9 attorney's request or on its own, the court may waive a requirement
10 specified in this rule, or it may overlook a formal defect in a motion.

11 **(i) Oral Argument.** On a party's or victim's attorney's request
12 or on its own, the court may set a motion for argument or hearing.

13 **(j) Proposed Orders.** A proposed order must be prepared as a
14 separate document and may not be included as part of a motion,
15 stipulation, or other document. There must be at least two lines of text
16 on the signature page of a proposed order. A party or victim's attorney
17 must serve the proposed order on the court and all other parties and
18 victim's attorney. A party or victim's attorney must not file a
19 proposed order, and the court will not docket it, until a judge has
20 reviewed and signed it. Absent a notice of filing, proposed orders will
21 not be part of the record.

22 The 2018 Comment objected to these changes as follows:

23 The proposed change to Rule 1.9 explicitly grants the victim's
24 attorney new rights, including the right to file motions, ask for
25 arguments and hearings, and propose court orders. Seemingly, this
right would not be afforded to victims not represented by counsel, but
only to attorneys of victims, such as the attorneys at the Arizona
Voice for Criminal Victims.

(2018 Comment, at page 4.)

In AVCV's 2019 Petition, AVCV revised the changes sought in Rule 1.9 to
read as follows:

Rule 1.9. Motions, Oral Argument, and Proposed Orders

. . .

1 **(b) Service of Motion; Response; Reply.** The moving party
2 must serve the motion on all other parties. No later than 10 days after
3 service, another party may file and serve a response, and, no later than
4 3 days after service of a response, the moving party may file and serve
5 a reply. A reply must be directed only to matters raised in a response.
6 If no response is filed, the court may deem the motion submitted on
7 the record. When addressing matters that impact any victim's rights, a
8 victim may file motions, responses, and replies that comply with these
9 rules.

10 . . .
11 **(d) Waiver of Requirements.** ~~On a party's request or on its~~
12 ~~own,~~ The court may waive a requirement specified in this rule, or it
13 may overlook a formal defect in a motion.

14 **(e) Oral Argument.** ~~On a party's request or on its own,~~ The
15 court may set a motion for argument or hearing.

16 **(f) Proposed Orders.** A proposed order must be prepared as a
17 separate document and may not be included as part of a motion,
18 stipulation, or other document. There must be at least two lines of text
19 on the signature page of a proposed order. A party or victim's attorney
20 must serve the proposed order on the court and all other parties and
21 victim's attorney. A party or victim's attorney must not file a
22 proposed order, and the court will not docket it, until a judge has
23 reviewed and signed it. Absent a notice of filing, proposed orders will
24 not be part of the record.
25

 The changes sought by AVCV to Rule 1.9 in its 2019 Petition remain the
same in AVCV's 2020 Petition.

 AVCV's proposed 2019 and 2020 amendments to Rule 1.9 are different than
AVCV's proposed 2018 amendments. The 2019 and 2020 amendments to Rule
1.9(b) eliminate the phrases, "or the victim's attorney," and merely propose to add
the following sentence at the end of the subsection: "When addressing matters that
impact any victims' rights, a victim may file motions, responses, and replies that
comply with these rules." That addresses the concern raised by AACJ/APDA in

1 their 2018 Comment. The 2019 and 2020 amendments to Rule 1.9(d) and (e) also
2 differ in that they also eliminate the phrases, “or the victim’s attorney.” Only the
3 proposed 2018 amendment to Rule 1.9(f) remains the same in the proposed 2019
4 and 2020 amendments.

5
6 None of the proposed amendments to Rule 1.9 by the 2018, 2019, or 2020
7 Petitions would create any new rights for victims or make victims “quasi-part[ies],
8 equal with the defendant and the state throughout the entire criminal process,” as
9 the 2018 Comment charged. The Comment completely overlooks that A.R.S. § 13-
10 4437(A) conferred standing on victims “to seek an order, to bring a special action
11 or to file a notice of appearance in a trial court or an appellate proceeding, seeking
12 to enforce any right or to challenge an order denying any right guaranteed to
13 victims.” The sentence AVCV added to the end of Rule 1.9(b) in its 2019 and 2020
14 Petitions--“When addressing matters that impact any victims’ rights, a victim may
15 file motions, responses, and replies that comply with these rules”--simply
16 recognizes the rights already established by the state constitution and statutes
17 which give victims standing to assert their rights.
18
19
20

21 The changes proposed in all three Petitions for Rule 1.9(f) are simply
22 intended to ensure that in addition to parties, victims, through their attorneys, will
23 be able to serve and receive proposed orders in connection with motion practice
24 relevant to victims and their rights.
25

1 AACJ/APDA objection to AVCV's 2018 proposed changes to Rule 1.9:

2 The proposed change to Rule 1.9 goes beyond these enumerated
3 rights and obligations, and inserts the victim into the delicate balance
4 between the prosecution and defense in a way not contemplated by the
5 VBR. . . . At its core, the VBR intends to protect and inform the
6 victim. What the Petition seeks, and what the VBR does not intend, is
7 to make victims a quasi-party, equal with the defendant and the state
8 throughout the entire criminal process.

9 The proposed changes would grant a victim's attorney
10 unprecedented power, but with none of the ethical obligations and
11 responsibilities of the prosecutor. . . . The proposed Rule 1.9 would
12 convert a victim's attorney from a counselor for the victim into a party
13 to the criminal proceeding, making him a sort of adjunct prosecutor,
14 capable of disrupting and influencing pretrial hearings and criminal
15 proceedings. This expansion of power exceeds the victim's right to be
16 informed or treated with dignity and respect while trampling on the
17 province of the prosecutor and the due process rights of the defendant.

18 . . . To elevate the victim or his attorney to party status in a
19 criminal proceeding violates the most fundamental notions of justice.

20 (Comment, at pages 8-9.)

21 AACJ/APDA have misinterpreted the VBR, its implementing statutes and
22 Rules, and the cases decided to date. Victims are no longer just passive spectators
23 at criminal trials, but active participants with certain rights, and with standing to
24 enforce those rights, individually or through counsel of their own choice.

25 AVCV's 2020 proposed amendment to Rule 1.2, the addition of a subsection
(a)(3), which would provide: "*Victims Are Not Parties*. These rules are not to be
construed to make victims parties to a criminal case." AVCV proposed this
amendment after considering stakeholder feedback in previous Comments. It is
consistent with A.R.S. § 13-4419(C), which makes clear something already

1 implicit in the criminal justice system: “The right of the victim to confer with the
2 prosecuting attorney does not include the authority to direct the prosecution of the
3 case.”
4

5 While AVCV’s previous Petitions were not an attempt to make victims
6 parties, AVCV attempted to make that clear in the 2020 Petition by acknowledging
7 the limits on victims’ rights that have already been addressed by Arizona’s case
8 authority:
9

10 It is important to point out that in seeking integration, AVCV is
11 not asserting that victims are parties to a criminal case nor is AVCV
12 seeking to elevate victims to party status. Arizona case authority is
13 clear that victims of crime are not parties to a criminal prosecution.
14 *State v. Lamberton*, 183 Ariz. 47 (1995) (victim is not an aggrieved
15 party with standing to file her own petition for review in a Rule 32
16 proceeding); *Lindsay R. v. Cohen*, 236 Ariz. 565 (App. 2015) (noting
17 VBR did not make victims parties). AVCV proposes an amendment
18 to Rule 1.2(a) to clarify that fully integrating victims’ rights
19 throughout the rules of procedure will not make victims parties to a
20 criminal case. AVCV proposes adding subsection (3) to read:
21 “Victims Are Not Parties. These rules are not to be construed to make
22 victims parties to a criminal case.” Although victims are not parties,
23 they are important participants with enforceable rights throughout the
24 entirety of Arizona’s criminal justice process. AVCV merely seeks to
25 ensure that trial courts and attorneys are aware of each applicable
situation where a victim may assert a right guaranteed under the VBR
or the VRIA.

(2020 Petition, at page 6.)

2. **Rule 6.7**

The 2018 Comment objected to AVCV’s proposed 2018 change to Rule
6.7(d) because it “cut[] the time given to the defendant in a capital case to move

1 for an expert witness after the State makes it disclosure under Rule 15.1(i)(3) in
2 half from 60 to 30 days.” (Comment, at page 4.)

3
4 AVCV made the change requested by AACJ and APDA in AVCV’s 2019
5 Petition, and AVCV’s 2020 Petition remains the same, that is, it leaves the time
6 period in Rule 6.7(d) at 60 days.

7 **3. Rule 7.3**

8
9 AVCV’s proposed 2018 changes to Rule 7.3 to which AACJ and APDA
10 objected are the same as AVCV’s proposed 2019 and 2020 changes to Rule 7.3.
11 The changes are as follows:

12 **Rule 7.3. Conditions of Release**

13 **(a) Mandatory Conditions.** Every order of release must
14 contain the following conditions:

- 15 (1) the defendant must appear at all court proceedings;
16 (2) the defendant must not commit any criminal offense;
17 (3) the defendant must not leave Arizona without the court’s
18 permission; and
19 (4) the defendant must not contact the victim, unless the
20 court clearly finds good cause to conclude the victim’s safety would
21 be protected without a no-contact order; and

22 ~~(4)~~ (5) if a defendant is released during an appeal after
23 judgment and sentence, the defendant will diligently pursue the
24 appeal.

25 . . .
(c) Additional Conditions. ~~The court must order the~~
~~defendant not to contact a victim if such an order is reasonable and~~
~~necessary to protect a victim from physical harm, harassment,~~
~~intimidation, or abuse.~~ The court ~~also~~ may impose as a condition of
release one or more of the following conditions, if the court finds the
condition is reasonable and necessary to secure the defendant’s
appearance or to protect another person or the community from risk of
harm by the defendant. In making determinations under this rule, the

1 court must consider, if provided, the results of a risk assessment
2 approved by the Supreme Court and a law enforcement's lethality
3 assessment.

4 The 2018 Comment objected to these changes on the basis that "The
5 proposed Rule 7.3 establishes an automatic no-contact order with the victim, and it
6 shifts the burden onto the defendant to show 'good cause' to overcome it."
7 (Comment, at page 4.)

8
9 The proposed changes to Rule 7.3 are simply the application to Rule
10 39(b)(1), the right to be treated with fairness, respect, and dignity and to be free
11 from intimidation, harassment, or abuse throughout the criminal justice process.
12 Already existing Rule 39(b)(1) is consistent with the mirroring constitutional
13 provisions, Ariz. Const. art. II, § 2.1(A)(1), and A.R.S. § 13-4431, which
14 provides: "Before, during and immediately after any court proceeding, the court
15 shall provide appropriate safeguards to minimize the contact that occurs between
16 the victim, the victim's immediate family and the victim's witnesses and the
17 defendant, the defendant's immediate family and defense witnesses."
18
19

20 One of the most terrifying things that can happen to a victim after a crime is
21 committed, especially a violent crime, is the release of the defendant. AACJ and
22 APDA voice concern that the proposed changes will "shift[] the burden onto the
23 defendant to show 'good cause' to overcome" a no-contact order. Victims
24 concerns about a defendant's release from custody are legitimate. The VBR
25

1 addresses these very real concerns by granting victims a constitutional right to be
2 free from intimidation, harassment, or abuse throughout the criminal justice
3 process. Ariz. Const. Art. II, § 2.1(A)(1) Released defendants generally have no
4 valid reasons for wanting to contact their victims, and if they do have such
5 reasons, the proposed changes allow defendants to advance them.

7 **4. Rule 7.5**

8
9 AVEC's proposed 2018 change to Rule 7.5 to which AACJ and APDA
10 objected is the same as AVEC's proposed 2019 and 2020 change to Rule 7.3. The
11 change is merely to add the word "abuse" to Rule 7.5(c), as follows:

12
13 **On Victim's Petition.** If the prosecutor decides not to file a
14 petition under (a), the victim may petition the court to revoke the
15 defendant's bond or own recognizance release, or otherwise modify
16 the conditions of the defendant's release. Before filing a petition, the
17 victim must consult with the prosecutor about the requested relief.
18 The petition must include a statement under oath by the victim
19 asserting any harassment, threats, physical violence, abuse, or
20 intimidation by the defendant, or on the defendant's behalf, against
21 the victim or the victim's immediate family.

22
23 AACJ and APDA objected to this change on the basis that "The proposed
24 Rule 7.5 widens the scope of reasons a victim can seek to modify a defendant's
25 release conditions." (Comment, at page 4.)

26
27 Victims have standing to exercise their constitutional right to be free from
28 intimidation, harassment, or *abuse* by filing a Petition to modify the conditions of
29 the defendant's release if the victim or the victim's immediate family suffers such

1 “abuse” at the hands of the defendant, or on the defendant’s behalf, just as much as
2 if the matter involved was “harassment, threats, physical violence, or
3 intimidation.” Ariz. Const. Art. II, § 2.1(A)(1). AACJ and APDA have advanced
4 no valid reason to reject the proposed change.
5

6 **5. Rule 15.6**

7 AVCV’s proposed 2018 change to Rule 15.6 to which AACJ and APDA
8 objected was as follows:
9

10 **Extension of Time for Completion of Testing.**

11 (1) *Motion*. Before the final disclosure deadline in (c), a party
12 may move to extend the deadline to permit the completion of
13 scientific or other testing. The motion must be supported by an
14 affidavit from a crime laboratory representative or other scientific
15 expert stating that additional time is needed to complete the testing or
16 a report based on the testing. The affidavit must specify how much
17 additional time is needed.

18 (2) *Order*. If a motion is filed under (e)(1), the court must grant
19 reasonable time to complete disclosure unless the court finds that the
20 need for the extension resulted from dilatory conduct or neglect,
21 would infringe on the victim’s right to a speedy trial asserted by the
22 victim or by the state on behalf of the victim, or that the request is
23 being made for an improper reason by the moving party or a person
24 listed in Rule 15.1(f) or 15.2(f).

25 (3) *Extending Time*. If the court grants a motion under (e)(2),
the court may extend other disclosure deadlines as necessary.

21 The objection by AACJ and APDA was: “The proposed Rule 15.6 places
22 the victim’s speedy trial rights above the due process rights of the accused by
23 allowing the judge to ignore the requirement that reasonable time be given to
24 complete discovery.” (Comment, at page 4.)
25

1 AVCV made the change requested by AACJ/APDA in AVCV's 2019
2 Petition, and AVCV's proposed 2020 change to Rule 15.6 remains the same as it
3 was in 2019:
4

5 **(e) Extension of Time for Completion of Testing.**

6 (1) *Motion.* Before the final disclosure deadline in (c), a
7 party may move to extend the deadline to permit the completion of
8 scientific or other testing. The motion must be supported by an
9 affidavit from a crime laboratory representative or other scientific
expert stating that additional time is needed to complete the testing or
a report based on the testing. The affidavit must specify how much
additional time is needed.

10 (2) *Order.* If a motion is filed under (e)(1), the court must
11 grant reasonable time to complete disclosure unless the court finds
12 that the need for the extension resulted from dilatory conduct or
neglect, or that the request is being made for an improper reason by
the moving party or a person listed in Rule 15.1(f) or 15.2(f).

13 (3) *Extending Time.* If the court grants a motion under
14 (e)(2), the court may extend other disclosure deadlines as necessary.
15 In determining new deadlines under this rule, the court must consider
the victim's and defendant's right to a speedy trial.

16 The proposed 2019 change, carried over into 2020, answered the 2018
17 objection. The sentence AACJ and APDA were opposed to in subsection (2) was
18 removed and replaced with a sentence in subsection (3) that referred to both the
19 victim's and the defendant's right to a speedy trial.
20

21 **6. Rule 16.3**

22 AVCV's proposed 2018 change to Rule 15.6 to which AACJ and APDA
23 objected was as follows:
24

25 **Scope of Proceeding.** At the conference, the court, after
considering the views of the victim, may:

- (1) hear motions made at or filed before the conference;
- (2) set additional pretrial conferences and evidentiary hearings as appropriate;
- (3) obtain stipulations to relevant facts; and
- (4) discuss and determine any other matters that will promote a fair and expeditious trial, including imposing time limits on trial proceedings, using juror notebooks, giving brief pre-voir dire opening statements and preliminary instructions, and managing documents and exhibits effectively during trial.

The objection by AACJ and APDA was: “The proposed Rule 16.3 allows the victim to weigh in before the court hears motions, sets hearings or conferences, accepts stipulations, or does anything else at any of the pretrial hearings.” (Comment, at page 4.)

In AVCV’s 2019 Petition, AVCV made changes to the amendment it sought in Rule 16.3(d) in part in response to the objection of AACJ/APDA, and AVCV’s proposed 2020 changes to Rule 16.3(d) remain the same as they were in 2019:

- (d) Scope of Proceeding.** At the conference, the court may:
- (1) hear motions made at or filed before the conference;
 - (2) set additional pretrial conferences and evidentiary hearings as appropriate after considering the rights and views of the victim, the victim’s right to a speedy trial, and the victim’s right to be present at all proceedings;
 - (3) obtain stipulations to relevant facts; and
 - (4) discuss and determine any other matters that will promote a fair and expeditious trial, including imposing time limits on trial proceedings, using juror notebooks, giving brief pre-voir dire opening statements and preliminary instructions, and managing documents and exhibits effectively during trial.

The proposed amendments merely recognize that victims have the constitutional rights “To be present at and, upon request, to be informed of all

1 criminal proceedings where the defendant has the right to be present”; “To be
2 heard at any proceeding involving a post-arrest release decision, a negotiated plea,
3 and sentencing”; and “To a speedy trial or disposition and prompt and final
4 conclusion of the case after the conviction and sentence.” Ariz. Const. Art. II, §
5 2.1(A)(3), (4), and (10), respectively.

7 **B. Appendix B: 2019 Comment—AVCV Petition No. R-19-0016**

8
9 The 2019 Comment was filed by AACJ and MCPD. In their 2019 Comment,
10 AACJ/MCPD acknowledged that AVCV changed Rules 6.7(d) and 15.6(e) to meet
11 the objections in their 2018 Comment and dropped their objections relative to
12 those Rules. That left AACJ/MCPD with only their objections to AVCV’s
13 proposed changes to Rules 1.9, 7.3(a) and (c), 7.5(c), and 16.3(d), which have been
14 addressed above.
15

16 **IV. COMMENT OF THE STATE BAR OF ARIZONA**

17
18 The *Comment of the State Bar of Arizona* opposes AVCV’s Petition. The
19 Bar does not cite any specific proposed amendments, but the general objections are
20 outlined below.

21
22 The Bar first asserts: “The Petition seeks to modify a vast majority of the
23 Arizona Rules of Criminal Procedure to insert victim rights into most of the rules,
24 while simultaneously maintaining Rule 39 which contains these rights.”
25 (Comment, at page 1.) The Bar relies on *Slayton v. Shumway*, 166 Ariz. 87 (1990),

1 to assert that victims' rights must be narrowly construed to deal only with
2 procedural rules pertaining to victims. (Comment, at page 2.)

3
4 AVCV's Petition only seeks to modify the Rules by adding references to
5 victims and their rights in Rules where they already are supported by existing law.
6 Reliance on *Slayton v. Shumway* is misplaced. *Slayton* simply does not stand for
7 the proposition that victims' rights must be narrowly construed. *Slayton* involved a
8 challenge to Prop. 104 being on the November 1990 ballot. *Slayton*, 166 Ariz. at
9 88. The challenger argued that Prop. 104 violated the single subject rule of the
10 Arizona Constitution. *Id.* The challenger acknowledged that the provisions now
11 known as Ariz. Const. art. II, §§ 2.1(A)(1)-(10) were so interrelated that they
12 indeed formed a single subject, but argued that the provision now known as Ariz.
13 Const. art. II, § 2.1(A)(11), which pertains to rule making authority, was not
14 sufficiently related. *Id.* at 88-89. *Slayton* interpreted that provision to transfer rule
15 making authority from this Court to the state legislature. *Id.* The Prop 104 Task
16 Force had a narrow view of its own provision, acknowledging that rulemaking
17 authority granted to the legislature is for the limited purpose of protecting victims'
18 rights. *Id.* at 92. In fact, this Court has previously acknowledged that victims'
19 rights are to be "liberally construed to preserve and protect the rights to which
20 victims are entitled." *J.D.; M.M. v. Hegyi*, 236 Ariz. 39 (2014) citing A.R.S. § 13-
21 4418.
22
23
24
25

1
2 Next, the Bar argues that:

3
4 Like the prior petitions, the instant Petition will effectively
5 expand victim rights to procedural rules which neither pertain to nor
6 directly implicate specific rights unique and peculiar to victims
7 created by VBR. As Petitioner states, the goal of the proposed rule
8 changes is to make “*all rules* governing criminal procedure” protect
9 victim rights to be heard and to participate in criminal proceedings.
10 (Petition at 5). This aim is inconsistent with the narrow construction
11 given victim rights as it seeks to elevate crime victims to the status of
12 party in a criminal proceeding—which crime victims are not. *Lindsay*
R. v. Cohen, 236 Ariz. 565 (App. 2015) (VBR did not make victims
parties). Moreover, Petitioner relies on VBR’s general aims of
affording victims “due process,” as well as its requirement that
victims be “treated with fairness, dignity and respect,” but these are
not rights “created by” VBR.

13 (Comment, at pages 2-3.)

14 First, AVCV’s proposed amendments do not “expand[s] victim rights to
15 procedural rules which neither pertain to nor directly implicate specific rights
16 unique and peculiar to victims created by VBR.” In fact, AVCV has not proposed
17 any such amendments. More importantly, the Bar fails to understand that the
18 “unique and peculiar” language has been used by the Supreme Court to refer to the
19 legislature’s ability to enact procedural statutes. *State ex rel. Napolitano v. Brown*,
20 194 Ariz. 340 (Ariz. 1999).

23 Second, the Bar misquotes AVCV’s Petition when it asserts that, “As
24 Petitioner states, the goal of the proposed rule changes is to make ‘*all rules*
25 governing criminal procedure’ protect victim rights to be heard and to participate

1 in criminal proceedings. (Petition at 5).” Rather, AVCV’s Petition actually says:
2 “Integrating victims’ rights into each applicable rule would be consistent with the
3 right established in paragraph 11 of the VBR, namely that ‘*all rules governing*
4 *criminal procedure and the admissibility of evidence in all criminal proceedings*
5 *protect victims' rights.*’ (emphasis added.) Ariz. Const. art. II., § 2.1(A)(11).”

7 Third, again, victims’ rights are not to be given a “narrow construction” as it
8 would be inconsistent with A.R.S. § 13-4418. Additionally, nothing in the
9 proposed amendments seeks to elevate crime victims to the status of party in a
10 criminal proceeding. On the contrary, AVCV proposes an amendment that states,
11 “These rules are not be construed to make victims parties to a criminal case.” Rule
12 1.2(a)(3). And A.R.S. § 13-4419(C) makes it clear that it is the prosecutor who
13 directs the prosecution of a criminal case—something that is clear in the nature of
14 criminal law even in the absence of a statute.

17 Fourth, the Bar’s asserts that the rights of victims to “due process” and to be
18 treated with “fairness, respect, and dignity . . . throughout the criminal justice
19 process” “are not rights ‘created by’ VBR.” Indeed, they are express constitutional
20 rights conferred upon victims in the first clauses of the VBR:

22 Section 2.1. (A) To preserve and protect victims' rights to
23 justice and *due process*, a victim of crime has a right:

24 1. *To be treated with fairness, respect, and dignity, and to be*
25 *free from intimidation, harassment, or abuse, throughout the criminal*
justice process.

1 Finally, the Bar asserts:

2 Rule 39 of the Arizona Rules of Criminal Procedure sets forth
3 *all* rights afforded crime victims on matters unique and peculiar to
4 them. Of course, trial courts are bound by and must follow the
5 provisions of that rule. Although Petitioner sets forth five cases in
6 which it claims victim rights were violated by the trial court, whether
7 violations actually occurred in the matters described is not established.
8 Even assuming the facts as stated, every victim has “standing to seek
9 an order, [or] to bring a special action...seeking to enforce any right
10 or to challenge an order denying any right guaranteed to victims.”
11 *A.R.S. §13-4437(A)*.

12 First, Rule 39 of the Arizona Rules of Criminal Procedure does not set forth
13 *all* rights afforded crime victims on matters unique and peculiar to them. The
14 statement does not consider the VBR, its implementing legislation, and other
15 Rules. However, AVCV’s Petition is limited to integrating Rule 39 throughout the
16 Arizona Rules of Criminal Procedure.

17 Second, the Bar questions the cases, which was not an exhaustive list of
18 cases, that AVCV highlighted. AVCV’s Petition provides details of the violations,
19 states that AVCV has copies of the transcripts on file, and that it has additional
20 case examples available upon request of the Court. However, AVCV was limited,
21 as it noted in the Petition, in what it could put into the Petition by the 20-page limit
22 of Ariz. R. Sup. Ct. (a)(4)(B). Further, the fact that A.R.S. § 13-4437(A) gives
23 victims standing to file a special action does not excuse trial courts from properly
24 applying victims’ rights. Nor does it mean that victims should endure criminal
25 proceedings without meaningful participation in Arizona’s trial courts simply

because they have an appellate remedy. It is imperative that victims’ rights assist victims with the “healing of their ordeals” as this Court directed. *Champlin v. Sargeant*, 192 Ariz. 371 (1999).

CONCLUSION

Of the four Comments received in response to AVCV's 2020 Petition, one is in complete support, one is primarily in support, and two are opposed. The arguments against the Petition made in the two opposed Comments do not justify their oppositions.

AVCV respectfully requests that the Court grant the Petition and adopt all of the amendments it seeks.

Respectfully submitted June 1, 2020.
ARIZONA VOICE FOR CRIME VICTIMS

BY: /s/ COLLEEN CLASE